

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

IN RE:

**APRIL DENISE HECKATHORN,

Debtors.**

**Case No. 95-03541-W
Chapter 7**

**APRIL DENISE HECKATHORN,

Plaintiff,**

v.

**UNITED STATES OF AMERICA, ex rel.
U.S. DEPARTMENT OF EDUCATION,
HEMAR SERVICE CORPORATION OF
AMERICA, STUDENT LOAN
MARKETING ASSOCIATION, AND IT
NETWORK, UNIVERSITY OF TULSA,
EDUSERVE TECHNOLOGIES,
NORTHSTAR GUARANTY, INC. and
HEMAR INSURANCE CORPORATION
OF AMERICA,**

Defendants.

Adv. No. 95-0376-W

**ORDER REGARDING APPLICATION FOR ORDER REQUIRING
JUDGMENT DEBTOR TO APPEAR AND ANSWER AS TO ASSETS**

THIS MATTER comes before the Court pursuant to the Application for Order Requiring Judgment Debtor to Appear and Answer as to Assets (the "Application") filed August 10, 2001, by Hemar Insurance Corporation of North America ("Hemar"). In the Application, Hemar seeks an order from this Court requiring April Denise Heckathorn, now known as April Denise Parnell (the "Debtor"), to appear and answer concerning her property and assets. For the reasons set forth below, the Application shall be denied.

Background

Debtor filed her Complaint to Determine Dischargeability of Debt (the “Complaint”) commencing this adversary proceeding on November 8, 1995. On August 22, 1996, Hemar obtained a Judgment against the Debtor in the principal amount of \$32,500.35 with interest at the rates set forth in Debtor’s underlying student promissory notes. *See Docket No. 34*. This Adversary proceeding was concluded on December 10, 1996. *See Docket No. 43*. The main bankruptcy case was closed July 11, 1996. *See Docket No. 20, Case No. 95-03541-W*.

Discussion

The question raised by the Application is whether this Court has jurisdiction to enforce a nondischargeable money judgment in a bankruptcy case that has been closed. A bankruptcy court may raise the issue of its own jurisdiction *sua sponte*. *See e.g., Franklin Life Ins. Co. v. Rousselle (In re Rousselle)*, 259 B.R. 409, 411 (Bankr. M.D. Fla. 2001). Determinations as to the dischargeability of a debt are core proceedings arising under title 11 which bankruptcy judges are empowered to hear. *See* 28 U.S.C. § 157(b)(2)(I). Moreover, bankruptcy courts have jurisdiction to enter monetary judgments in adversary proceedings brought to determine the dischargeability of debts. *See In re Heidenreich*, 216 B.R. 61, 63 (Bankr. N.D. Okla. 1998).

Like all federal courts, however, the bankruptcy court is a court of limited jurisdiction. *See Edwards v. Sieger (In re Sieger)*, 200 B.R. 636, 638 (Bankr. N.D. Ind. 1996). The scope of the jurisdiction conferred upon the bankruptcy court is to be narrowly interpreted and “extends no farther than its purpose.” *Id.* (citations omitted). “When that purpose no longer exists, neither does the court’s jurisdiction.” *Id.* The general purpose of the Bankruptcy Code is bring the interests of the debtor into the estate, thus providing the debtor with a fresh start while maximizing the

creditors' recovery. *See In re DeNadai*, 259 B.R. 801, 806 (Bankr. D. Mass. 2001).

Here, the underlying bankruptcy case has been closed and the Debtor has received her discharge. The primary purposes of bankruptcy jurisdiction have been fulfilled, bringing this Court's jurisdiction to an end. Furthermore, the Court has previously determined that the Debtor's debt to Hemar is nondischargeable, thus its collection will have no impact on the bankruptcy estate. Indeed, the estate no longer exists. The lack of an effect over the estate is fatal to the bankruptcy court's jurisdiction. *See HOC, Inc. v. McAllister (In re McAllister)*, 216 B.R. 957, 966 (Bankr. N.D. Ala. 1998) (citation omitted).

Conclusion

In the instant case, Hemar is a judgment creditor of a former debtor in bankruptcy. The Court finds that it lacks jurisdiction to enforce a judgment under such circumstances. Oklahoma law, however, provides more than adequate procedures for enforcing such judgments, and Hemar is free to pursue its remedies under state law.¹ Accordingly, the Application shall be denied.

IT IS THEREFORE ORDERED that the Application for Order Requiring Judgment Debtor to Appear and Answer as to Assets filed August 10, 2001, by Hemar Insurance Corporation of North America be, and the same hereby is, denied.

¹ The Court notes that Oklahoma law provides an expedited procedure for enforcing a nondischargeable judgment in state court under the Uniform Enforcement of Foreign Judgments Act.

Dated this 14th day of August, 2001.

BY THE COURT:

TERRENCE L. MICHAEL
UNITED STATES BANKRUPTCY JUDGE

c: R. Michael Cole
April D. Parnell

2685.1